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AUG 30 2006

FAX

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Urgent and Confidential

Date: August 30, 2006

TO: USPTO
Examiner B. Chervinsky
Art Unit 2835
Fax Number 571-273-8300

FROM: Paul E. Steiner
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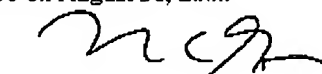
SUBJECT: Application Number 10/822,054
Inventor(s) Richard MONTGOMERY, et al.
Date Filed April 8, 2004
Docket Number P15278
Title COLD PLATE

INCLUDED IN THIS TRANSMISSION:

Fax Cover Sheet	1 page
Transmittal	1 page
Reply Brief	8 pages

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Paul E. Steiner

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/822,054	
	Filing Date	4/8/2004	
	First Named Inventor	Richard Montgomery	
	Art Unit	2835	
	Examiner Name	B. Chervinsky	
Total Number of Pages in This Submission	10	Attorney Docket Number	P15278


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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Intel Americas, Inc.		
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Richard MONTGOMERY, et al.

Serial No.: 10/822,054

Group Art Unit: 2835

Filed: April 8, 2004

Examiner: B. Chervinsky

FOR: COLD PLATE

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

Pursuant to 37 C.F.R. § 41.41, Applicant submits this reply brief, in response to the Examiner's Answer mailed June 30, 2006.

All arguments in Applicants' Appeal Brief, filed May 30, 2006, are herein incorporated into this Reply Brief.

Claims 1-3, 7-9, 13-15, and 19-20

The Examiner argues:

Point D represents local and apparently hottest point on the surface of the IC chip.

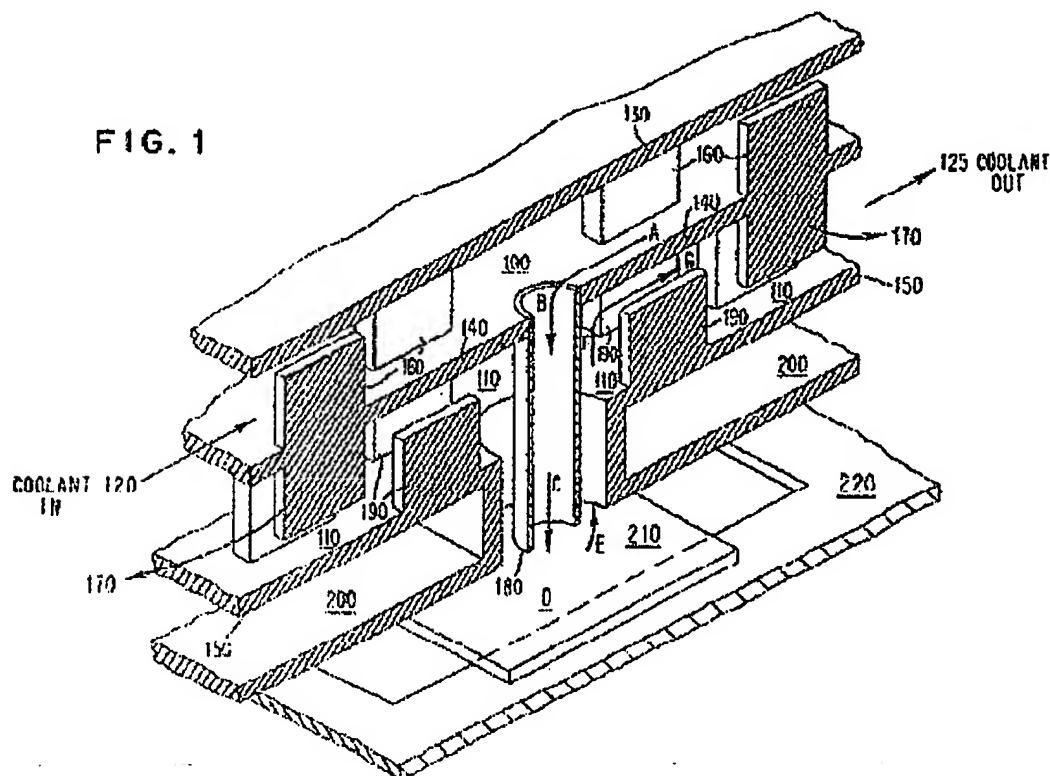
P15278

Serial No.: 10/822,054

This is clear factual error. Applicants first note that the Examiner asserts that point D is 'apparently' the hottest point because Anderson provides no such express teaching. There is only a single mention of point D in the Anderson reference at col. 3, lines 65 - 68, which is reproduced below for the Board's convenience:

The primary coolant then undergoes a liquid 65 to vapor change of state at point D on the chip surface, thus removing heat through the processes of boiling, evaporation and forced convection.

In fact, points A through G in the figures represent regions along the coolant flow path and not any particular 'point'. In fact, 'point' D represents the entire chip surface (see col. 3, lines 65-68 reproduced above). This fact is further supported by the representation of point D in Fig. 1 of Anderson, which is reproduced below for the Board's convenience:



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The chip surface is denoted by the underlined reference letter 'D'. It is customary in patent drawings to use an underlined reference character to indicate the surface on which the reference character is placed. As set forth in 37 C.F.R. § 1.84, entitled 'Standards for drawings':

(q) *Lead lines.* Lead lines are those lines between the reference characters and the details referred to. Such lines may be straight or curved and should be as short as possible. They must originate in the immediate proximity of the reference character and extend to the feature indicated. Lead lines must not cross each other. Lead lines are required for each reference character except for those which indicate the surface or cross section on which they are placed. Such a reference character must be underlined to make it clear that a lead line has not been left out by mistake. (Emphasis added).

Accordingly, both the rejection and the Examiner's answer are based on clear factual error, and the rejection should be reversed.

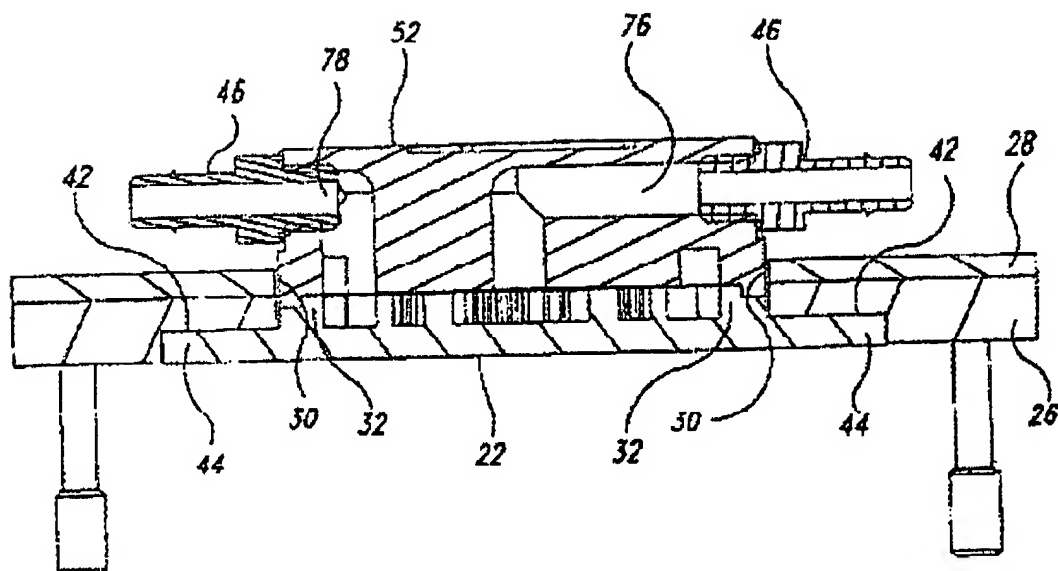
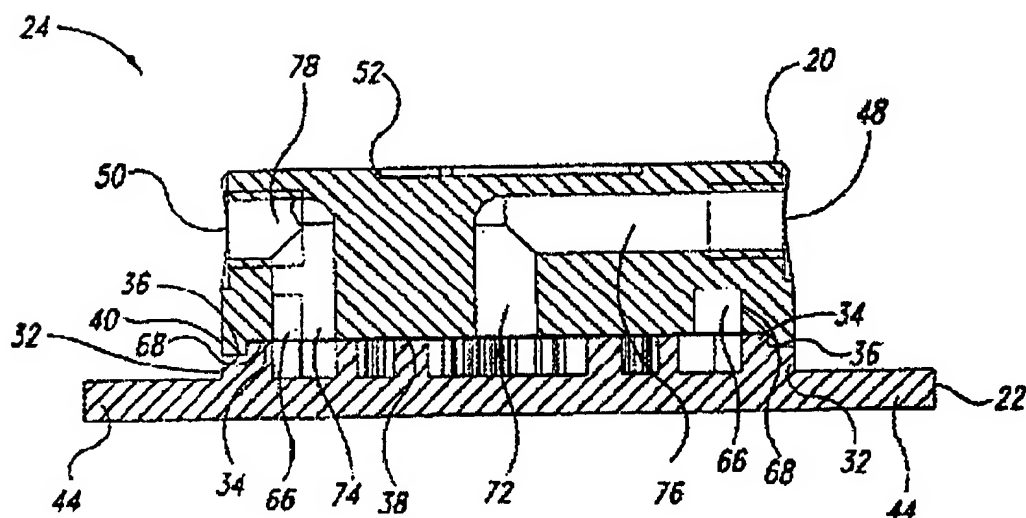
Claims 4, 10, and 16

The Examiner argues:

With respect to claims 4, 10 and 16, Doll discloses the impingement point offset from the center as shown in Fig. 3 and Fig. 5.

For the Board's convenience, these figures are reproduced below:

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*Fig. 3**Fig. 5*

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As previously noted, the Examiner has explicitly admitted that Doll fails to teach "having the impingent point offset from the center" in the first office action mailed June 8, 2005 (see page 3, last two lines). The Examiner should not be permitted to take a new contradictory position without any justification or explanation.

In any event, Applicants remain perplexed and extremely prejudiced by the time wasted in requiring an appeal to address this clear error. The Examiner's Answer is the last word from the Examiner in this case, yet no analysis or explanation is provided regarding how Figs. 3 and 5 can possibly read on the claims. Applicants note that Doll describes a fluid inlet conduit 76, which with reference to Figs. 3 and 5 would provide a central flow onto the fin plate 22. Throughout the reference, Doll describes the heat exchanger as distributing cooling fluid from the center of the chamber to the periphery of the chamber. At col. 5, lines 6-10, Doll explicitly states:

Referring to FIGS. 5, 6 and 7, it can be seen that the cylindrical turret head 20 includes a fluid inlet aperture 72 in the bottom surface, centered directly over the center of the fin plate 22, as well as a fluid outlet aperture 74, positioned within the annular fluid channel 66. 10

Accordingly, Doll teaches only that the impingement point is directly centered. The Examiner's new position is clear factual error and the rejection should be reversed.

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Claims 5, 11, and 17

The Examiner argues:

With respect to claims 5, 11 and 17, the examiner's position is that the fluid channels aspect ratio is sufficiently high as shown by Doll, and as Appellant acknowledges, is about 2:1, since, the specification does not provide the range in which the aspect ratio should be considered as high.

The Examiner has not performed the proper and complete examination. Applicants' claims are presumed to be patentable unless the Examiner comes forth with sufficient evidence to rebut that presumption. The Examiner has offered no evidence of what one skilled in the art would consider to be a high aspect ratio. It is irrelevant what the Examiner's position is or that the specification does not provide a range. Absent evidence, the claims must be allowed. The only evidence relied upon by the Examiner in the present application is identified by the Examiner as the two references applied in the rejections. Neither of these references shed any light on what one of ordinary skill in the art would consider to be a high aspect ratio.

Because the Examiner has failed to produce any evidence which supports his position, the rejection should be reversed.

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Claims 6, 12, and 18

The Examiner argues:

With respect to claims 6, 12 and 18, the instant application does not provide clear definition of the term "co-located" with respect to the fluid inlet and fluid outlet. therefore it can be reasonably broadly interpreted as being located in the same plane as it is indicated in the examiner's rejection.

Again, applicants note that the Examiner has failed to meet the evidentiary burden to support his position.

In any event, the Examiner's position is clearly erroneous both factually and legally. Factually, the specification does provide some description of what the term 'co-located' means. As previously noted, it would be clear to one of ordinary skill in the art from the claim language itself or with reference to the specification (e.g. see paragraph [0036]), as used in claims 6, 12, and 18, co-located means in the same position or located very near to each other on the enclosure.

Legally, the Examiner has failed to perform proper claim construction. While it is improper to read limitations from the specification into the claims, the specification may provide context for construing the claims and understanding the meaning of claim recitations. See In Re Okuzawa, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976). In the present application, the specification describes what co-located means and shows several examples of co-located inlets and outlets in the figures. This is the proper context for construing the claim language.

Because the Examiner's analysis is factually and legally incorrect, the rejection should be reversed.

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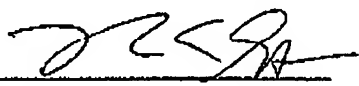
In view of the foregoing, together with Applicants' Appeal Brief, favorable reconsideration and reversal of the rejection is respectfully requested. Early notification of the same is earnestly solicited. If there are any questions regarding the present application, the Examiner and / or the Board is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

August 30, 2006

Date

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